

**Credit Counseling**  
**11 U.S.C. § 109(h)**  
**BR Act Section 106**

*The Act mandates that individuals filing under chapters 7 and 13 must receive an approved credit counseling briefing (subject to exceptions set forth below) in order to be eligible to file a bankruptcy case. This briefing must take place in the 180 day period preceding the date of the filing of the petition.*

- I. Clerk must maintain a publicly available list of approved credit counseling services<sup>1</sup>;
  - A. Post list to court's website, and provide in hard copy at clerk's office public area;
  - B. Upon notification from the UST or BA that a particular agency's approval has been withdrawn, the court shall remove the name from the list.
- II. Debtor indicates on petition whether credit counseling has been obtained (likely a check box)
  - A. If the debtor indicates that they have received credit counseling:
    - 1. Debtor submits certification regarding credit counseling with petition;
      - a. Certification is docketed;
    - 2. Debtor does not submit certification regarding credit counseling with petition;
      - a. Interim Federal Rule of Bankruptcy Procedure 1007(c) states that "the documents required by subdivision (b)(3) shall be filed with the petition in a voluntary case." Subdivision (b)(3) of Rule 1007 references the credit counseling certificate.
  - B. If the debtor indicates that he/she has not received credit counseling:

---

<sup>1</sup> The list will be compiled by the United States Trustee (UST) or Bankruptcy Administrator (BA). These entities, and not the clerk, have sole responsibility for determining what is an "approved" credit counseling service.

1. Debtor indicates that the waiver of the credit counseling requirement under 11 U.S.C. 109 (h)(4) is applicable, i.e., that the debtor is unable to complete the credit counseling requirement as a result of incapacity or disability, or because debtor is on active military duty in an active combat zone;
    - a. Court sets the matter for hearing and sends notice;
  2. Debtor submits “exigent circumstances” certification with petition, stating that he/she attempted, but was unable to, obtain credit counseling within 5 days from making the request;
    - a. Certification is docketed;
    - b. Flag is generated within CM/ECF, setting a 30-day period for compliance;
    - c. Court, for cause, can extend this period for an additional 15 days.
- D. Debtor fails to submit either credit counseling or exigent circumstances certification;
1. Recommended practice: Deficiency notice is generated,
  2. CM/ECF generates flag for dismissal consistent with deadline in deficiency notice (probably 15 days);
  3. If documents not submitted within appropriate time frame, case dismissed.